

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**ROBERT E. MORLEY, JR., and
REM HOLDINGS 3, LLC**

Plaintiffs,

vs.

**SQUARE, INC., JACK DORSEY, and
JAMES MCKELVEY, JR.**

Defendants.

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Civil Action No. 4:14-cv-00172-CDP

JURY TRIAL DEMANDED

**PLAINTIFFS' OPPOSED MOTION FOR LEAVE TO FILE SURREPLY TO
DEFENDANTS' MOTION TO DISMISS COUNTS 1, 2, 3, 5, 6, 7, & 11.**

Plaintiff Dr. Robert Morley and REM Holding 3, LLC (collectively "Plaintiffs") respectfully move for leave to file a Surreply to Defendants' Motion to Dismiss Counts 1, 2, 3, 5, 6, 7 and 11. Upon review of the Square Defendants' Reply, Plaintiffs respectfully request leave to file this brief 8-page surreply, attached to this motion as Exhibit 1, to correct certain mischaracterizations made by the Square Defendants in their reply regarding both Plaintiffs' positions and the relevant legal authority. For example, the Square Defendants repeatedly (and wrongfully) accuse Plaintiffs of deliberately misstating the law. Considering that the Square Defendants seek the severe sanction of dismissal with prejudice, Plaintiffs should be allowed to rebut such accusations. The purpose of this surreply is solely to clarify the relevant issues and assist the Court in its determination of the Square Defendants' motion. Moreover, this Court has allowed and considered surreply briefs even without leave. *Myers v. Sander*, No. 4:13CV2192 CDP, 2014 WL 409081, * 2 (E.D. Mo. Feb. 3, 2014). For these reasons, Plaintiffs request leave to file the attached surreply.

Dated: May 23, 2014

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

ROBERT E. MORLEY, JR. AND

REM HOLDINGS 3, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically via the Court's electronic case filing system. As such, this document was served on all counsel who have registered for electronic case filing on this 23rd day of May, 2014. E.D.Mo. L.R. 2.12.

/s/ Bradley W. Caldwell
Bradley W. Caldwell